

James H. Goetz
GOETZ, GALLIK & BALDWIN, P.C.
35 North Grand Avenue
P.O. Box 6580
Bozeman, MT 59771-6580
Ph: (406) 587-0618; Fax: (406) 587-5144
E-mail: jim@goetzlawfirm.com

Banks Brown, *Admitted Pro Hac Vice*
Michael J. Dillon, *Admitted Pro Hac Vice*
McDERMOTT WILL & EMERY LLP
340 Madison Avenue
New York, NY 10017
Ph: (212) 547-5400; Fax: (212) 547-5444
E-mail: bbrown@mwe.com; mdillon@mwe.com

Attorneys for Counterclaim Defendants Gunvor Group, Ltd. and Pinesdale LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, BILLINGS DIVISION**

SIGNAL PEAK ENERGY, LLC, Plaintiff, vs. EASTERN MONTANA MINERALS, INC., and MUSSELSHELL RESOURCES, LLC, Defendants and Counterclaim Plaintiffs, SIGNAL PEAK ENERGY, LLC; FIRSTENERGY CORP.; FIRSTENERGY VENTURES CORP.; FIRSTENERGY GENERATION CORP.; GUNVOR GROUP, LTD.; PINESDALE LLC; BOICH COMPANIES, LLC; WMB MARKETING VENTURES LLC; GLOBAL COAL SALES GROUP, LLC; and GLOBAL MINING HOLDING COMPANY, LLC, Counterclaim Defendants.))	Case No. CV 12-55-BLG-RFC <u>PINESDALE LLC'S AND GUNVOR GROUP, LTD.'S OPPOSITION TO DEFENDANTS' MOTION TO EXTEND PAGE LIMITS</u>
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ARGUMENT

Counterclaim Defendants Gunvor Group Ltd. (“Gunvor”) and Pinedale LLC (“Pinedale”) respectfully submit this opposition to Counterclaim Plaintiffs Eastern Montana Minerals, Inc.’s and Musselshell Resources, LLC’s (collectively, “EMM’s”) motion for an extension of the Court’s word limit for EMM’s memorandum of law in support of its opposition to Gunvor and Pinedale’s motions to dismiss the counterclaims, pursuant to Fed. R. Civ. P. 12 (“Rule 12”). In short, EMM’s request would unfairly benefit EMM, while prejudicing Gunvor and Pinedale. Moreover, EMM’s request will not simplify the Rule 12 briefing for the Court (procedurally or otherwise); rather, it will only further confuse an already confused action.

On June 28, 2012, Counterclaim Defendants Gunvor and Pinedale filed Rule 12 motions to dismiss the claims brought against them by EMM. Thereafter, on July 12, 2012, EMM filed an *Amended Answer To The Amended Complaint With Counterclaims*, adding an additional Counterclaim Defendant, but otherwise leaving EMM’s substantive allegations against the collective Counterclaim Defendants relatively unchanged. Accordingly, on July 25, 2012, Gunvor and Pinedale filed slightly revised motions to dismiss, and EMM’s opposition papers

are due tomorrow, August 16, 2012. EMM makes this motion on the eve of its expected response.

As a general matter, Gunvor and Pinesdale are willing to extend all reasonable courtesies to EMM with respect to its opposition papers. Moreover, Gunvor and Pinesdale do not seek to burden the Court with unnecessary motion practice. However, Gunvor and Pinesdale must oppose EMM's request to deviate from the Court's rules and effectively double the size of its opposition brief.

First, an "omnibus" opposition brief that speaks to all of the Counterclaim Defendants promises to compound the flaws inherent in its pleadings – namely that EMM's counterclaims paint with an impermissibly broad brush, and fail to allege specific facts sufficient to merit the inclusion of Pinesdale and Gunvor in this matter. Gunvor and Pinesdale have detailed the specific deficiencies with EMM's pleadings *as to Gunvor and Pinesdale*, and expect specific responses to their Rule 12 challenges – not vague, general counter-arguments levied at all the Counterclaim Defendants. Such a response could only further muddy the waters of this action, confuse the Court, and blur the fact that Gunvor and Pinesdale do not belong.

Second, were the Court to permit the extension that EMM seeks, EMM's responsive arguments would not be constrained by the same restrictions that were imposed upon the briefs submitted by Gunvor and Pinesdale (and which similar restrictions will be imposed on any reply briefs to be submitted by Gunvor and Pinesdale). Gunvor and Pinesdale were required to adhere to the Court's rules concerning motion practice in presenting their respective arguments for the dismissal of numerous causes of action and claims for relief, and EMM should not be permitted to avoid doing the same in response to these motions.

To be clear, Gunvor and Pinesdale are not exalting form over substance. Gunvor and Pinesdale recognize that EMM may opt to submit some series of "collective" opposition briefs that number fewer than the total of the Rule 12 motions filed by the Counterclaim Defendants. This is EMM's prerogative. We respectfully submit, however, that whatever opposition is offered by EMM should conform to the Court's rules, and that a dispensation from such rules would be unfair to Gunvor and Pinesdale, and could unduly benefit EMM.

DATED this 15th day of August, 2012.

/s/ James H. Goetz
GOETZ, GALLIK & BALDWIN, P. C.
Attorney for Counterclaim Defendants
Gunvor Group, Ltd. and Pinesdale LLC

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(d)(2) of the Federal Rules of Civil Procedure, the undersigned certifies that the word count calculated by Microsoft Word is 575 words (including footnotes and excluding the caption, Certificate of Compliance, and Certificate of Service).

DATED this 15th day of August, 2012.

/s/ James H. Goetz
GOETZ, GALLIK & BALDWIN, P. C.
Attorney for Counterclaim Defendants
Gunvor Group, Ltd. and Pinesdale LLC

CERTIFICATE OF SERVICE

I certify that, on August 15, 2012, a copy of the foregoing document was served on the following persons by the following means:

1- 9 CM/ECF
 Hand Delivery
 Mail
 Overnight Delivery Service
 Fax
 E-Mail

1. Ross W. McLinden
Moulton Bellingham
27 N. 27th Street, Ste. 1900
P. O. Box 2559
Billings, MT 59103-2559

Attorney for Defendants and Counterclaim Plaintiffs

2. Christopher R. Belmonte
Satterlee Stephens Burke & Burke LLP
230 Park Avenue, Suite 1130
New York, NY 10169

Attorney for Defendants and Counterclaim Plaintiffs

3. Dai Wai Chin Feman
Satterlee Stephens Burke & Burke LLP
230 Park Avenue, Suite 1130
New York, NY 10169

Attorney for Defendants and Counterclaim Plaintiffs

4. A. Clifford Edwards
Edwards, Frickle & Culver
1648 Poly Drive, Suite 206
P. O. Box 20039
Billings, MT 59104-0039
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; Firstenergy Corp.; Firstenergy Ventures Corp.; Firstenergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC
5. Triel D. Culver
Edwards, Frickle & Culver
1648 Poly Drive, Suite 206
P. O. Box 20039
Billings, MT 59104-0039
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; Firstenergy Corp.; Firstenergy Ventures Corp.; Firstenergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC
6. A. Christopher Edwards
Edwards, Frickle & Culver
1648 Poly Drive, Suite 206
P. O. Box 20039
Billings, MT 59104-0039
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; Firstenergy Corp.; Firstenergy Ventures Corp.; Firstenergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC

7. John W. Edwards
Edwards, Frickle & Culver
1648 Poly Drive, Suite 206
P. O. Box 20039
Billings, MT 59104-0039
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; Firstenergy Corp.; Firstenergy Ventures Corp.; Firstenergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC

8. Bruce A. Americus
Buchanan Ingersoll & Rooney PC
One Oxford Centre, 20th Floor
301 Grant Street
Pittsburgh, PA 15219
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; Firstenergy Corp.; Firstenergy Ventures Corp.; Firstenergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC

9. Matthew F. Burger
Buchanan Ingersoll & Rooney PC
One Oxford Centre, 20th Floor
301 Grant Street
Pittsburgh, PA 15219
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; Firstenergy Corp.; Firstenergy Ventures Corp.; Firstenergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC

/s/ James H. Goetz _____
GOETZ, GALLIK & BALDWIN, P. C.